Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

REMARKS/ARGUMENTS

Amendments

The claims are modified in the amendment. More specifically, claims 1, 6, and 7 have been amended. No claims have been cancelled and no new claims have been added. Therefore, claims 1-21 are present for examination. Applicant respectfully requests reconsideration of this application as amended.

35 U.S.C. §112 Rejection

Claims 7 and 8-16 are rejected under 35 U.S.C. §112. Claim 7 has been rejected under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter on the grounds that "usage is a broad term" that can mean many things. The Applicant respectfully disagrees since a reading of the specification makes clear the meaning of the word "usage" in claim 7. However, for the sake of expediency, claim 7 has been amended to clarify the type of usage as requested by the Office Action.

Claim 8, as well as dependent claims 9-16, have also been rejected under 35 U.S.C. §112. However, it is unclear to the Applicant, which paragraph of §112 is intended to be cited. While paragraph 3 of the Office Action cites the second paragraph of §112, the second bullet point of paragpraph 3 indicates that the limitation "choosing a lower bitrate version of the content object if the check for availability is unsuccessful" has "insufficient antecedent basis . . . in the specification." Therefore, it is unclear whether paragraph 2 of §112 is being cited on the grounds that there is a problem with antecedent basis within the claim or paragraph 1 of §112 is being cited on the grounds that the claim lacks an adequate description in the specification. In either case, the Applicant respectfully traverses the rejection. All elements of claim 8 have sufficient antecedent basis in the claim as originally written. Further, the claim is sufficiently supported in the description. Specifically, see page 15, lines 15-28 describing saving content

Appl. No. 10/002,469
Amdt. dated May 11, 2005
, Reply to Office Action of February 14, 2005

PATENT

objects in a number of different transcoded formats so that they can later be located or "choosen" in the event a higher bitrate data link cannot be reserved.

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon et al.

The Office Action has rejected claims 1, 5 and 7 under 35 U.S.C. §103(a) as being obvious over the cited portions of U.S. Patent No. 6,601,009 of Florschuetz (hereinafter "Florschuetz") in view of the cited portions of U.S. Patent No. 6,845,106 of McKinnon, III et al. (hereinafter "McKinnon"). The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, the Office Action must establish: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine their teachings; 2) a reasonable expectation of success of such a modification or combination; and 3) a teaching or suggestion in the cited prior art of each claimed limitation. See MPEP §706.02(j).

As will be discussed in detail below, the references cited in the Office Action do not teach or suggest each claimed limitation. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination.

Claim 1, upon which claims 5 and 7 depend, is directed to "a method for distributing a content object over a broadband connection to an end-user location." The method includes "determining an amount of bandwidth for a user defined quality of service (QOS) to transport the content object; determining a period for transporting the content object; checking

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

for availability of the amount of bandwidth to the end-user location over the period; reserving the bandwidth if available." None of the references cited, alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

Florschuetz is directed to "a system for controlling the transmission of data from a content provider to a user over the Internet based upon the bandwidth of the user's connection to the Internet." (Col. 3, lines 64-67) Florschuetz "measures the bandwidth of a user's Internet connection . . . and, having measured the bandwidth of the user's connection to the Internet, sends the user the data in a form optimized for the measured bandwidth." (Col. 4, lines 1-6) That is, Florschuetz teaches a content provider determining available bandwidth for a transmission path, over the Internet, to a user and sending data to the user in a form based on the measured bandwidth. However, Florschuetz does not teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

McKinnon is directed to "a method of providing network access across a shared communications medium between at least two competing users." (Col. 4, lines 49-51) Under McKinnon this method "includes the steps of: (a) prior to first and second time intervals, respectively determining for each user first and second network access allowances; (b) during the first time interval, providing network access to each user such that the respective first network access allowance is not exceeded; and (c) during the second time interval, providing network access to each user such that the respective second network access allowance for each user is not exceeded." (Col. 4, lines 52-59) "The 'network access allowance' represents a respective maximum level of network access that can be made available to the user during a particular time interval." (Col. 4, lines 60-63) The allowance can be based, among other things, on an established minimum quality of service (QoS). (Col. 5, lines 29-36) However, this minimum QoS is established by the carrier. (Col. 15, lines35-39)

That is, McKinnon teaches determining a maximum bandwidth allowance for a user but does not teach or suggest reserving any amount of bandwidth The maximum bandwidth limit described in McKinnon cannot be considered equivalent or analogous to a reservation of a

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

minimum amount of bandwidth. Therefore, McKinnon does not teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz and McKinnon is no more revelant to the pending claims than either reference alone. Neither Florschuetz nor McKinnon, alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claims 1, 5 and 7 should be allowed.

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al. further in view of Duso et al.

The Office Action has rejected claims 2 and 3 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of McKinnon and further in view of the cited portions of U.S. Patent No. 5,892,915 of Duso et al. (hereinafter "Duso"). The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

As discussed above, independent claim 1 upon which claims 2 and 3 depend is distinguishable from Florschuetz and McKinnon since neither Florschuetz nor McKinnon, alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

Duso is directed to "a video file server, and more particularly to a client-server protocol and interface for providing the video server with open network connectivity." (Col. 1, lines 29-32) Duso "provides a client-server protocol and interface for providing broadcast playback functionality." (Col. 2, lines 47-48) Under Duso, disk access by various playback tasks is scheduled, in part, based on a maximum delay determined by the service provider. (Col 13, lines 35-67) However, Duso does not disclose reserving bandwidth for transporting content objects read from the disk. Therefore, Duso does not teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz, McKinnon, and Duso is no more revelant to the pending claims than any of the references alone. Florschuetz, McKinnon, nor Duso alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claims 2 and 3 should be allowed.

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al. further in view of Malmlof

The Office Action has rejected claim 6 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of McKinnon and further in view of the cited portions of U.S. Patent No. 6,594,241 of Malmlof (hereinafter "Malmlof"). The Applicant respectfully submits that the Office Action has not established a *prima facie* case of

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

As discussed above, independent claim 1 upon which claim 6 depends is distinguishable from Florschuetz and McKinnon since neither Florschuetz nor McKinnon, alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

Malmlof is directed to "controlling switching between communication channels of different types." (Col. 1, lines 14-16) Under Malmlof "assuming that the mobile user connection is assigned to a particular type of channel, a sliding window with a predetermined number of time intervals is established." (Col. 6, lines 20-23) "For each of the time intervals in that sliding window, information associated with a type of channel supporting the mobile radio connection is determined." (Col. 6, lines 23-25) The sliding window information is used to make channel switching decisions. (Col. 6, lines 37-41) While these different channels may support transmissions at different bitrates, Malmlof does not teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object..

The combination of Florschuetz, McKinnon, and Malmlof is no more revelant to the pending claims than any of the references alone. Florschuetz, McKinnon, nor Malmlof alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claim 6 should be allowed.

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al.
further in view of Wang et al.

The Office Action has rejected claims 4, 8, 11, 13, 16, 17 and 20 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of McKinnon and further in view of the cited portions of U.S. Patent No. 6,434,197 of Wang et al. (hereinafter "Wang"). The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

As discussed above, claim 1, upon which claim 4 depends, is directed to "a method for distributing a content object over a broadband connection to an end-user location." The method includes "determining an amount of bandwidth for a user defined quality of service (QOS) to transport the content object; determining a period for transporting the content object; checking for availability of the amount of bandwidth to the end-user location over the period; reserving the bandwidth if available." None of the references cited, alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

Claim 8, upon which claims 11, 13, and 16 depend, also relates to "a method for distributing a content object over a broadband connection to an end-user location" and includes "determining an amount of bandwidth for adequate quality of service (QOS) to transport the content object; determining a period for transporting the content object; checking for availability of the amount of bandwidth to the end-user location over the period; [and] reserving the bandwidth if available." None of the references cited, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

Claim 17, upon which claim 20 depends, relates to "a software product embodied on a computer-readable medium for distributing a content object over a broadband connection to an end-user location." The "software product comprising code for: determining an amount of bandwidth for adequate quality of service (QOS) to transport the content object; determining a period for transporting the content object; checking for availability of the amount of bandwidth to the end-user location over the period; [and] reserving the bandwidth if available." Again,

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

None of the references cited, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

As discussed above, independent claim 1 upon which claim 4 depends is distinguishable from Florschuetz and McKinnon since neither Florschuetz nor McKinnon, alone or in combination, teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object. Similarly, independent claim 8, upon which claims 11, 13, and 16 depend, and independent claim 17, upon which claim 20 depends, are distinguishable from Florschuetz and McKinnon since neither Florschuetz nor McKinnon, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

Wang is directed to "transcoding digital video data, for example, at the headend of a cable or satellite television network." (Col. 2, lines 17-19) That is, Wang teaches a method of transcoding, i.e., converting, digital video data from one format to another that may be suitable for use with the present claims. However, Wang does not teach or suggest a user defined QOS or reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz, McKinnon, and Wang is no more revelant to the pending claims than any of the references alone. Florschuetz, McKinnon, nor Wang alone or in combination, teach or suggest a user defined QOS as recited in independent claim 1 or reserving an amount of bandwidth for transporting a content object as recited in independent claims 1, 8, and 17. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claims 4, 8, 11, 13, 16, 17 and 20 should be allowed.

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al. further in view of Wang et al. and further in view of Malmlof

The Office Action has rejected claims 12 and 21 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of McKinnon further in view of the cited portions of Wang and further in view of the cited portions of Malmlof. The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

As discussed above, independent claim 8 upon which claim 12 depends as well as independent claim 17 upon which claim 21 depends are distinguishable from Florschuetz, McKinnon, Wang, and Malmlof since none of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz, McKinnon, Wang, and Malmlof is no more revelant to the pending claims than any of the references alone. None of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claims 12 and 21 should be allowed.

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al. further in view of Wang et al. and further in view of Duso et al.

The Office Action has rejected claims 9, 10, 18 and 19 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

McKinnon further in view of the cited portions of Wang and further in view of the cited portions of Duso. The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

As discussed above, independent claim 8 upon which claims 9 and 10 depend as well as independent claim 17 upon which claims 18 and 19 depend are distinguishable from Florschuetz, McKinnon, Wang, and Duso since none of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz, McKinnon, Wang, and Duso is no more revelant to the pending claims than any of the references alone. None of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claims 9, 10, 18 and 19 should be allowed.

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al. further in view of Wang et al. and further in view of Payne et al.

The Office Action has rejected claim 14 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of McKinnon further in view of the cited portions of Wang and further in view of the cited portions of U.S. Patent No. 6,021,433 of Payne et al. (hereinafter "Payne"). The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

As discussed above, independent claim 8 upon which claim 14 depends is distinguishable from Florschuetz, McKinnon, and Wang since none of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

Payne is directed to "broadcast of up to the minute notification centric data thereby providing an instant call to action for users who are provided with the ability to instantaneously retrieve further detailed information" (Abstract). Under Payne messages can be multiplexed (Col. 9, lines 42-51) or compressed (Col. 17, line 38 - col. 18, line 54) "so that maximum amounts of information in compressed or bandwidth reduced form can be transmitted to the selected user or users." (Col. 17, lines 43-46) However, Payne does not teach or suggest reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz, McKinnon, Wang, and Payne is no more revelant to the pending claims than any of the references alone. None of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claim 14 should be allowed.

35 U.S.C. §103 Rejection, Florschuetz in view of McKinnon, III et al. further in view of Wang et al. and further in view of Erami et al.

The Office Action has rejected claim 15 under 35 U.S.C. §103(a) as being obvious over the cited portions of Florschuetz in view of the cited portions of McKinnon further in view of the cited portions of Wang and further in view of the cited portions of U.S. Patent No.

Appl. No. 10/002,469
Amdt. dated May 11, 2005
Reply to Office Action of February 14, 2005

PATENT

6,385,200 of Erami et al. (hereinafter "Erami"). The Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

As discussed above, independent claim 8 upon which claim 15 depends is distinguishable from Florschuetz, McKinnon, and Wang since none of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object.

Erami is directed to "a broadcast control system for determining unique routes to deliver broadcast cells to every destination in an ATM network that provides broadcast connections between a service provider terminal and a plurality of client terminals." (Col. 1, lines 13-17). That is, Erami discloses a system for routing data to various destinations to avoid network congestion. (Col. 2, lines 15-21) However. Erami does not teach or suggest reserving an amount of bandwidth for transporting a content object.

The combination of Florschuetz, McKinnon, Wang, and Erami is no more revelant to the pending claims than any of the references alone. None of the references, alone or in combination, teach or suggest reserving an amount of bandwidth for transporting a content object. Therefore, the references cited in the Office Action fail to teach or suggest each claimed limitation. Additionally, neither reference suggests such a modification. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify or combine these references. Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination. Therefore claim 15 should be allowed.

Appl. No. 10/002,469
Amdt. dated May 11, 2005
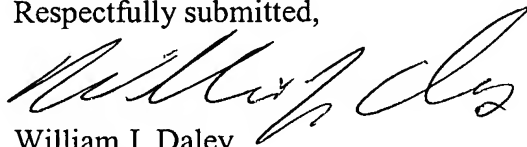Reply to Office Action of February 14, 2005

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

William J. Daley
Reg. No. 52,471

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 303-571-4321
TDF:cmb

60433983 v1